

ORDINANCE NO. 13-24

REZONING FROM M-2 (INDUSTRIAL DISTRICT) TO C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW 33 PARKING SPACES, WHERE 84 PARKING SPACES ARE REQUIRED, TO ALLOW 17 PARKING SPACES TO BACK OUT ON TO THE STREET, WHERE BACK-OUT PARKING IS ALLOWED ONLY IN LOW DENSITY RESIDENTIAL AREAS, TO ALLOW A FRONT SETBACK OF 14.95 FEET, WHERE 20 FEET ARE REQUIRED, A REAR SETBACK OF 0.60 FEET, WHERE 15 FEET ARE REQUIRED, TO ALLOW NO LANDSCAPE BUFFER, WHERE A 7-FOOT BUFFER IS REQUIRED BETWEEN THE PARKING AREA AND THE RIGHT-OF-WAY, AND TO ALLOW 10.8% PERVIOUS AREA, WHERE 18% IS REQUIRED, CONTRA TO HIALEAH CODE §§98-1115, 98-1117, 98-2189(8), 98-2190, 98-2233. **PROPERTY LOCATED AT 980-990 WEST 22 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of February 13, 2013, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby rezoned from M-1 (Industrial District) to C-2 (Liberal Retail Commercial District) and granting a variance

permit to allow 33 parking spaces, where 84 parking spaces are required, to allow 17 parking spaces to back out on to the street, where back-out parking is allowed only in low density residential areas, to allow a front setback of 14.95 feet, where 20 feet are required, to allow a rear setback of .60 feet, where 15 feet are required, to allow a side setback of 2.73 feet, where 10 feet are required, to allow no landscape buffer, where a 7-foot landscape buffer is required between the parking area and the right-of-way, and to allow 10.8% pervious area, where 18% is required, contra to Hialeah Code §§ 98-1115, 98-1117, 98-2189(8), 98-2190, 98-2233, which provide in pertinent part: "In the C-2 liberal retail commercial district, the front yard shall be the same as in the C-1 district." provided for in §98-1069(a) requiring that "In the C-1 restricted retail commercial district, setbacks on all retail property shall be 20 feet unless a setback is already established by two or more buildings in the block...If two or more buildings shall have previously been erected in the block and shall not be set back the same distance from the front of front lot lines, the setback shall be 20 feet unless an exception shall be approved by the planning and zoning board.", "In the C-2 liberal retail commercial district, the rear yard shall be the same as in the C-1 district." provided for in §98-1071 requiring that "In the C-1 restricted retail commercial district, there shall be a rear yard of not less than 15 feet in depth", "Off-street parking shall be provided in accordance with the following minimum standards...*Day care centers, child care facilities, kindergarten and preelementary schools.* One parking space for each 400 square feet of gross floor area. Safe and convenient ingress and egress to the center, facility or school, including a dropoff area, is required.", "In approving a site plan, the city shall consider appropriate setbacks and landscape buffer...", the minimum standards in the City of Hialeah

Landscape Manual being “(D)(7) Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscaped strip incorporating said planting and/or wall on private property.” and ““The City Council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual” as modified and supplemented by the city landscape manual which provides in Table A at (E) Tree and lawn requirements by zoning classification, that a minimum 18% lawn area (pervious) shall be provided for properties classified as C-2., respectively. The property is located at 980-990 West 22 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

TRACT A, TICO SUBDIVISION, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN PLAT BOOK 106,  
AT PAGE 28 OF THE PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the

city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

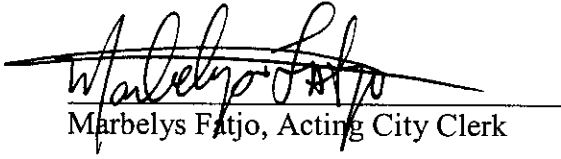
PASSED and ADOPTED this 26 day of March, 2013.

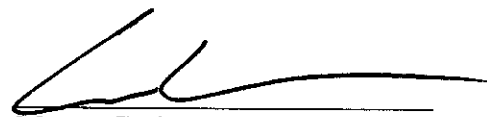
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Isis Garcia-Martinez  
Council President

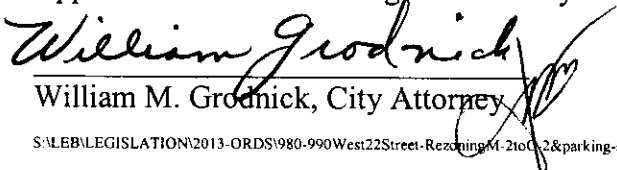
Attest:

Approved on this 1 day of April, 2013.

  
Marbelys Fatjo, Acting City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Ordinance was adopted by a 5-0 vote with Council Members, Garcia-Martinez, Casals-Munoz, Cue-Fuente, Hernandez and Lozano voting "Yes", Council Members Caragol and Gonzalez absent.